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Of Pro Bono Attorneys for Plaintiff

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

LAUREN WATSON

Case No. 3:23-cv-221

Plaintiff

COMPLAINT

vs

28 U.S.C. § 1332

NANCY COMBS

Jury Trial Requested

Defendant

1.

JURISDICTION AND VENUE

Jurisdiction is proper under 28 U.S.C. § 1332 because plaintiff is a citizen of Nevada and defendant is a citizen of Virginia and the amount in controversy requirement is satisfied through plaintiff's claims for damages and attorney fees.

2.

Venue is proper under 28 U.S.C. § 1391 because the rental property subject to this action is situated in Multnomah County, Oregon.

3.

FACTUAL ALLEGATIONS

From March 2022 to August 2022, plaintiff and her three children were tenants at 1137 NE 112th Avenue in Portland, Oregon.

4.

From March 2022 to August 2022, defendant was plaintiff's "landlord" as that term is used at ORS 90.100.

5.

From March 2022 to August 2022, defendant was responsible to maintain the premises at 1137 NE 112th Avenue in a "habitable condition" as that term is used at ORS 90.320.

6.

From March 2022 to August 2022, the premises at 1137 NE 112th Avenue substantially lacked effective waterproofing and weather protection of roof and exterior walls, in that the rear exterior door had inadequate or missing weather stripping, allowing weather entry, for example, creating conditions that posed a health and safety hazard to the plaintiff and her family. Defendant knew or should have known of these conditions.

7.

From March 2022 to August 2022, the premises at 1137 NE 112th Avenue substantially lacked a water supply maintained so as to provide safe drinking water, creating conditions that posed a health and safety hazard to the plaintiff and her family. Defendant knew or should have known of these conditions.

8.

From March 2022 to August 2022, the premises at 1137 NE 112th Avenue substantially lacked safety from fire hazards in that there were exposed wires and flickering lights, the oven caught fire and had to be replaced, and the oven wall socket was never repaired or replaced, for example, creating conditions that posed a health and safety hazard to the plaintiff and her family. Defendant knew or should have known of these conditions.

9.

From March 2022 to August 2022, the premises at 1137 NE 112th Avenue substantially lacked plumbing facilities maintained in good working order, in that the seal between the toilet and floor, and the seal between the bathtub and floor and wall was damaged, deteriorated, or missing, and the wall penetrations around the toilet water supply line were not sealed, for example, creating conditions that posed a health and safety hazard to the plaintiff and her family. Defendant knew or should have known of these conditions.

10.

From March 2022 to August 2022, the premises at 1137 NE 112th Avenue substantially lacked electrical lighting with wiring and electrical equipment maintained in good working order, in that several light fixtures and related switches in the kitchen, at the front entry, on the second floor, and in the bathroom were missing, malfunctioning, or not operable, for example, creating conditions that posed a health and safety hazard to the plaintiff and her family. Defendant knew or should have known of these conditions.

11.

From March 2022 to August 2022, the premises at 1137 NE 112th Avenue substantially lacked buildings, grounds and appurtenances at the time of the commencement of the rental agreement in every part safe for normal and reasonably foreseeable uses, clean, sanitary and free from all accumulations of debris, filth, rubbish, garbage, rodents and vermin, in that there were rodents and rodent droppings in and around the home, for example, creating conditions that posed a health and safety hazard to the plaintiff and her family. Defendant knew or should have known of these conditions.

12.

From March 2022 to August 2022, the premises at 1137 NE 112th Avenue substantially lacked ventilating, air conditioning and other facilities maintained in good repair, in that several bedroom windows could not be opened or were not operable, preventing emergency exit or ventilation, and the water heater was damaged and missing parts, for example, creating conditions that posed a health and safety hazard to the plaintiff and her family. Defendant knew or should have known of these conditions.

13.

From March 2022 to August 2022, the premises at 1137 NE 112th Avenue substantially lacked floors, walls, ceilings, stairways and railings maintained in good repair, in that areas of the interior floor and wall coverings in the kitchen, bathroom, and bedrooms were damaged and deteriorated, and the handrails at the stairs leading up to the second floor lacked proper returns, and the wall covering under the stairs had holes or cracks, and sections of the bathroom baseboards were damaged, deteriorated, or missing, sections of the wall cabinets in the hallway, kitchen, and east side bedroom were damaged, deteriorated, or missing, and sections of the concrete driveway were damaged, deteriorated, and uneven, for example, creating conditions that posed a health and safety hazard to the plaintiff and her family. Defendant knew or should have known of these conditions.

14.

The rental value of plaintiff's tenancy was approximately \$1,875 per month when the premises are maintained in a safe, healthy, habitable condition. As a result of defendant's breach of the standards of secure occupancy and essential services guaranteed by ORS 90.320 as alleged in this complaint, plaintiff experienced diminution in rental value, inability to sleep and anxiety caused by lack of weatherproofing and the presence of rodents, fear for the safety of her family caused by fire hazards and inoperable windows preventing an emergency exit in the event of fire, and similar disruptions of one's personal life resulting from the various unhealthy, uninhabitable conditions and critical safety violations alleged in this complaint, as tangible consequences of defendant's noncompliance to be proved at trial. *See, e.g.*, Exhibit 1.

15.

CLAIM FOR RELIEF

As alleged in this complaint, defendant violated ORS 90.320 during each month from March 2022 to August 2022, and so under ORS 90.360 plaintiff respectfully requests a judgment for economic damages for diminution in rental value for the noncompliance in an amount determined by the jury to be fair and reasonable, and for any appropriate noneconomic damages for the noncompliance in an amount determined by the jury to be fair and reasonable, and for post-judgment interest, and for reasonable attorney fees under ORS 90.225 and ORS 20.075 and costs.

16.

REQUEST FOR JURY TRIAL

Plaintiff respectfully requests a trial by jury.

17.

PRAYER

Plaintiff seeks relief against defendant as requested above, and for any other relief this Court may determine is fair. Plaintiff reserves the right to amend this complaint to adjust the claims for compensation and damages and to add claims and additional defendants, including claims for punitive damages. Some of the complaint's allegations are based in part on the memory of witnesses, which may later prove to be inaccurate in parts, and so the complaint may later be amended before trial to conform the allegations to the evidence obtained throughout the case. This complaint is made on personal knowledge as to plaintiff's actions and based on information and belief as to the actions of others.

February 14, 2023

RESPECTFULLY FILED,

/s/ Michael Fuller

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